

REMARKS

Claims 50-98 are pending in the present application. Claims 50-82 stand rejected for obviousness-type double patenting. Claims 59 and 76 stand rejected for obviousness over Neustein in view of Lebby et al. and Blok et al.

Applicant respectfully traverses the rejections and urges allowance of the present application.

Applicant submits herewith a Terminal Disclaimer with respect to U.S. Patent No. 6,052,062. Applicant respectfully requests withdrawal of the obviousness-type double patenting rejection.

10 Referring now to the obviousness rejection of claim 59, in paragraph 1 on page 8 of the Office Action, it is stated that Neustein does not disclose an encapsulant configured to encapsulate and contact at least a portion of the communication circuitry. On page 9 of the Action, it is stated that Lebby discloses encapsulation of communication circuitry referring to the teachings in column 3, lines 13-26 of Lebby. Referring to the specific teachings in column 3, lines 13-26 of Lebby, such discloses molding portions 22, 23 which are molded to form casing 11. Such teachings are devoid of disclosing or suggesting the *encapsulant configured to contact at least a portion of the communication circuitry* as positively recited in claim 1. Applicant notes that the Office Action fails to identify any teachings of Lebby which allegedly correspond to an encapsulant contacting at least a portion of communication circuitry as positively claimed. Lebby merely discloses portions 22, 23 being molded to form a casing 11. Lebby fails to disclose or suggest the

encapsulant configured to encapsulate and contact at least a portion of the communication circuitry as defined in claim 59. In addition, Blok fails to disclose or suggest an encapsulant configured to encapsulate and contact at least a portion of the communication circuitry as defined in claim 59. Accordingly, even if teachings of Lebby and Blok are combined with the teachings of Neustein, such combination fails to disclose or suggest positively recited limitations of claim 59. Claim 59 is allowable for at least this reason.

Motivation is required to combine reference teachings in support of an obviousness rejection. On page 9 of the Action, it is stated that it would have been obvious to include encapsulation of communication circuitry in the device of Neustein as evidenced by Lebby because Neustein suggests molding the circuit to give an appearance of regular credit cards and Lebby teaches encapsulation of communication circuitry molded in the form of a credit-card pager in order to provide a ruggedized structure. Applicant disagrees with the combination of the teachings of the references.

Referring to the teachings in column 4, lines 60-68, Figs. 1-1c, column 12, line 66 spanning to column 13, line 22, and Figs. 4 and 5, Neustein describes various housing configurations in detail. There is absolutely no evidence that the housings of Neustein are inadequate or Neustein would be concerned with providing a more ruggedized structure. There is no evidence of record that providing encapsulation of communication circuitry in Neustein would result in the provision of a more ruggedized structure. The teachings of Neustein already provide housing arrangements and one of ordinary skill in the art would not be motivated to look to Lebby for additional teachings. There is no motivation for one

of ordinary skill in the art to combine the teachings of Lebby with the teachings of Neustein in support of the obviousness rejection. The cursory statements in the Office Action fail to provide evidence that the structure of Neustein is inadequate, that the reference teachings could be combined, or if the reference teachings were combined that a more ruggedized structure would result. There is no motivation to support the combination of the references in support of the 103 rejection. The obviousness rejection of claim 59 is improper for at least this reason.

In addition, the Lebby patent is concerned with communication of optical signals as set forth in the abstract thereof while Neustein is concerned with pager apparatuses. One concerned with the pager arts would not look to the dissimilar teachings of Lebby concerning optical communication devices for meaningful teachings when concerned with the pager or RF arts. There is no motivation to combine Lebby with Neustein.

13 In addition, there is no motivation to combine the teachings of Blok with the teachings of Lebby and/or Neustein. Neustein already provides indicia 16 upon an outer surface of the device as shown in Fig. 1 of the Neustein patent. One of ordinary skill in the art would not look to additional teachings of Blok disclosing indicia on a surface of an encapsulant in order to identify the device. The obviousness rejection over Blok in the absence of proper motivation is improper and Applicant respectfully requests withdrawal of the obviousness rejection for at least this reason.

In addition, the obviousness rejection of claim 59 over Blok is improper inasmuch as Blok comprises non-analogous subject matter. As clearly set forth in the title and

abstract of the Blok patent, such pertains to printable coatings for heat shrinkable materials and provides an identification device having a heat shrinkable plastic substrate and printable layer over an exterior surface comprising a polyester resin, calcium carbonate and silicate compound. Figs. 1-4 illustrate heat shrinkable sleeves or coatings about a wire or flat device. Blok is non-analogous subject matter. The combination of non-analogous art areas is precluded by long standing Federal Circuit precedent. Prior art references are only analogous if the reference is in the field of Applicant's endeavor or the reference is reasonably pertinent to the particular problem with which the inventor was concerned. MPEP §2141.01(a) (citing *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992)). The Blok teachings cannot fairly be considered to be in the field of Applicant's endeavor or reasonably pertinent to the particular problem with which the inventor was concerned. One of ordinary skill in the art would not look to the Blok reference for meaningful teachings. The obviousness rejection of claim 59 is improper for at least this additional reason.

The claims which depend from independent claim 59 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

For example, with reference to claim 61, on page 10 of the Office Action it is stated that Neustein discloses RFID device circuitry. Applicant disagrees. Applicant has electronically searched the Neustein reference and has failed to uncover any RFID (radio frequency identification device) teachings. Neustein merely refers to paging operations

which in no fair interpretation disclose or suggest radio frequency identification device (RFID) teachings. The teachings in column 6, lines 1-19 of Neustein merely refer to a pager receiver construction which fails to disclose or suggest the claimed RFID circuitry of claim 61. Claim 61 recites limitations to shown or suggested in the prior art of record and claim 61 is allowable for at least this additional reason.

U Claim 76 recites a method of forming a wireless communication device including encapsulating at least a portion of the communication circuitry *with an encapsulant which contacts at least the encapsulated portion of the communication circuitry*, and providing visibly perceptible indicia upon the at least one side surface of the encapsulant. Claim 76 recites patentable subject matter over the prior art of record.

/ / The references of record fail to disclose or suggest encapsulating at least a portion of the communication circuitry with the encapsulant which contacts at least the encapsulated portion of the communication circuitry. The Lebby teachings merely disclose the casing 11 having molding portions 22, 23. Such teachings are devoid of disclosing or suggesting any contact of an encapsulant with at least a portion of communication circuitry as positively recited in claim 76. Claim 76 recites limitations not shown or suggested in

| 7 the prior art of record and claim 76 is allowable for at least this reason.

There is no motivation to combine the teachings of Neustein with the teachings of Lebby. Neustein already provides for a plurality of housing constructions and one would not be motivated to combine the Lebby teachings with the Neustein housing teachings as required for a 103 rejection. There is absolutely no evidence of record that the Neustein

constructions are deficient or that the teachings of Lebby concerning optical devices could in fact be combined with the pager constructions of Neustein, or that if such were combined a ruggedized structure would be provided. The obviousness rejection of claim 76 is improper without the proper motivation. Applicant requests withdrawal of the obviousness rejection of claim 76 for at least this reason.

There is further no motivation to combine the teachings of Blok with the teachings of Neustein or Lebby. Neustein already discloses providing indicia. One of ordinary skill in the art would not look to further reference teachings inasmuch as Neustein already includes indicia teachings. The 103 rejection is improper for this additional reason.

↑ ∪ Further, Blok is directed to non-analogous subject matter which is not properly combinable in support of the obviousness rejection of claim 76. Applicant respectfully requests withdrawal of the obviousness rejection of claim 76 for at least this additional reason.

The claims which depend from independent claim 76 are in condition for allowance for the reasons discussed above with respect to the independent claim as well as for their own respective features which are neither shown nor suggested by the cited art.

✓ The specification has been amended as indicated herein.

18 Applicant hereby adds new claims 83-98. Support for the new claims is provided at least page 8, lines 8-14 of the originally filed specification disclosing an exemplary power source comprising a battery, and on page 10, lines 12-24 disclosing an exemplary

communication circuitry configuration including a backscatter device. New claims 83-98 are allowable over the prior art of record.

Applicant respectfully requests allowance of all pending claims.


The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,

Dated: _____

3/14/02

By: _____



James D. Shaurette
Reg. No. 39,833

Application Serial No. 09/524,804
 Filing Date March 14, 2000
 Inventor Mark E. Tuttle
 Assignee Micron Technology, Inc.
 Group Art Unit 2635
 Examiner M. Shimzu
 Attorney's Docket No. MI40-285
 Title: Wireless Communication Devices, Radio Frequency Identification Devices,
 Methods of Forming a Wireless Communication Device, and Methods of Forming
 a Radio Frequency Identification Device



**VERSION WITH MARKINGS TO SHOW CHANGES MADE ACCOMPANYING
RESPONSE TO DECEMBER 14, 2001 OFFICE ACTION**

In the Specification

Underlines indicate insertions and ~~strikeouts~~ indicate deletions.

The replacement paragraph beginning at page 1 before the "Technical Field" section incorporates the following amendments.

--RELATED PATENT DATA

This patent resulted from a continuation application of U.S. Patent Application Serial No. 08/920,329, filed August 20, 1997, now U.S. Patent No. 6,052,062, entitled "Cards, Communication Devices, and Methods of Forming and Encoding Visibly Perceptible Information on the Same", naming Mark E. Tuttle as inventor, the disclosure of which is incorporated by reference.--

The paragraph beginning at line 5 on page 15 has been amended as follows:

--Additional print heads may be provided to simultaneously print on plural side surfaces 41 of card 10. The card 10 to be processed remains stationary during the printing

thereon by the print head 66 shown in Fig. 5. The depicted holding member 69 is shorter than the card 10 enabling printing on the upper side 41 thereof. Alternatively, holding member 65 is approximately the same length, or slightly less ~~then~~ than the length of card 10. --.

In the Abstract

The replacement abstract paragraph incorporates the following amendments.

Underlines indicate insertions and ~~strikeouts~~ indicate deletions.

~~The present invention relates to cards;~~ Cards communication devices, and methods of forming the same and encoding visibly perceptible information on communication devices are provided. A remote intelligent communication device includes: a card-thin housing including: an upper surface; a lower surface; and at least one side extending between the upper surface and the lower surface forming the card-thin housing, the side having visibly perceptible information thereon; and communication circuitry within the housing configured to at least one of communicate and receive electronic signals. A method of forming a card includes: providing a substrate having: an upper surface; a lower surface, and the upper and lower surfaces individually having a length and a width; and a plurality of sides individually having a thickness less than the lengths and the widths of the surfaces; and encoding visibly perceptible information on at least one of the sides.

END OF DOCUMENT